



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2022-0503; FRL-9936-01-R9]

#### Air Plan Approval; California; Innovative Clean Transit

#### Regulation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the California State Implementation Plan (SIP) concerning particulate matter (PM) and oxides of nitrogen (NO<sub>x</sub>) emissions from public transit buses. We are proposing to approve State rules that regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0503 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER**

**INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4152 or by email at [buss.jeffrey@epa.gov](mailto:buss.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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## **I. The State’s Submission**

### **A. *What rules did the State submit?***

On December 14, 2018, the California Air Resources Board (CARB) adopted a set of rules referred to as the Innovative Clean Transit (ICT) regulation. On August 13, 2019, the California Office of Administrative Law (OAL) approved the ICT regulation, effective October 1, 2019. On February 13, 2020, CARB submitted the ICT regulation to the EPA as a revision to the California SIP.<sup>1</sup> Table 1 lists the specific sections of Title 13, Division 3, Chapter 1, Article

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<sup>1</sup> CARB submitted the ICT Regulation electronically to the EPA on February 13, 2020 as an attachment to a letter dated February 12, 2020.

4.3 of the California Code of Regulations (CCR) that comprise the ICT regulation.

**TABLE 1 – SUBMITTED RULES**

<b>Agency</b>	<b>Section # 13 CCR</b>	<b>Rule Title</b>	<b>State Effective Date</b>	<b>Submission Date</b>
CARB	2023	Innovative Clean Transit Regulations Applicability and Scope	10/01/2019	02/13/2020
CARB	2023.1	Zero-Emission Bus Requirements	10/01/2019	02/13/2020
CARB	2023.2	Compliance Option for Joint Zero-Emission Bus Groups	10/01/2019	02/13/2020
CARB	2023.3	Zero-Emission Bus Bonus Credits	10/01/2019	02/13/2020
CARB	2023.4	Provisions for Exemption of a Zero-Emission Bus Purchase	10/01/2019	02/13/2020
CARB	2023.5	Zero-Emission Mobility Option	10/01/2019	02/13/2020
CARB	2023.6	Low-NOx Engine Purchase Requirements	10/01/2019	02/13/2020
CARB	2023.7	Requirements to Use Renewable Fuels	10/01/2019	02/13/2020
CARB	2023.8	Reporting Requirements for Transit Agencies	10/01/2019	02/13/2020
CARB	2023.9	Record Keeping Requirements	10/01/2019	02/13/2020
CARB	2023.10	Authority to Suspend, Revoke or Modify	10/01/2019	02/13/2020
CARB	2023.11	Severability	10/01/2019	02/13/2020

In addition to the Final Regulation Order and documentation of OAL approval, CARB's February 13, 2020 SIP submission includes CARB Staff Report: Initial Statement of Reasons (August 7, 2018) and related appendices; the Notice of Public Hearing, dated July 24, 2018, for a hearing on September 27, 2018; CARB Resolution 18-60 (December 14, 2018) through which CARB adopted the ICT regulation; and the Final Statement of Reasons (June 2019) and related appendices. On August 13, 2019, the submission from CARB was deemed by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V.<sup>2</sup>

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<sup>2</sup> See CAA section 110(k)(1)(B).

On August 11, 2022, CARB supplemented the February 13, 2020 SIP submission.<sup>3</sup> The August 11, 2022 supplement includes certain additional definitions codified in the CCR or California Health & Safety Code (CH&SC) that are relied upon in the ICT regulation. The specific definitions submitted on August 11, 2022 are listed in table 2.

**TABLE 2 – SUBMITTED ADDITIONAL DEFINITIONS RELIED UPON BY THE ICT REGULATION**

<b>Agency</b>	<b>CCR, CH&amp;SC or CVC Section</b>	<b>Title</b>	<b>State Effective Date</b>
CARB	CH&SC 39012	Air Basin	01/01/1976
CARB	17 CCR 95481(a)(30)	Untitled but defines the term “compressed natural gas (CNG)”	07/01/2020
CARB	13 CCR 2208(c)(18)	Untitled but defines the term “Low-NOx engine”	10/16/2017
CARB	17 CCR 60100(e)	Untitled but defines the Sonoma County portion of the North Coast Basin	07/05/1978
CARB	17 CCR 60013	Lake Tahoe Air Basin	01/30/1976
CARB	17 CCR 95481(a)(130)	Untitled but defines the term “Renewable hydrocarbon diesel”	07/01/2020
CARB	17 CCR 95481(a)(22)	Untitled but defines the term “Biomethane”	07/01/2020
CARB	13 CCR 2020(b)	Definitions	01/02/2010

**B. *Are there other versions of these rules?***

The ICT regulation replaces an earlier CARB regulation referred to as the Fleet Rule for Transit Agencies. CARB originally adopted the Fleet Rule for Transit Agencies in 2000, and amended the rule in 2004 and 2006. The Fleet Rule for Transit Agencies was never submitted or approved as part of the California SIP.

**C. *What is the purpose of the submitted rules?***

Emissions of PM, including PM equal to or less than 2.5 microns in diameter (PM<sub>2.5</sub>) and PM equal to or less than 10 microns in diameter (PM<sub>10</sub>), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and

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<sup>3</sup> Shirin Barfjani, Air Pollution Specialist, CARB, email correspondence to Jeffrey Buss, EPA Region 9, August 11, 2022.

cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Additionally, emissions of NO<sub>x</sub> contribute to the production of ground-level ozone, which harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM and NO<sub>x</sub> emissions.

The purpose of the ICT regulation is to transition California public transit bus fleets to zero-emission technologies by 2040. The ICT regulation was developed to ensure transit service integrity and program feasibility through this transformation. The ICT regulation was included as one of the regulatory measures adopted by CARB in the 2016 State SIP Strategy to achieve emissions reductions of NO<sub>x</sub> and PM emissions needed to attain the National Ambient Air Quality Standard (NAAQS), particularly in the South Coast and San Joaquin Valley air quality planning areas.<sup>4</sup> Furthermore, CARB notes that the ICT regulation furthers state environmental justice goals by transitioning to clean transportation modes in low-income and disadvantaged communities.<sup>5</sup>

As adopted, CARB estimates that the ICT regulation will reduce NO<sub>x</sub> and PM emissions by approximately 7,032 and 39.4 tons, respectively, on a statewide basis between 2020 and 2050.<sup>6</sup> In addition, CARB anticipates that the Zero-Emission Bus (ZEB) technologies deployed under the ICT regulation will assist the future advanced technology deployment in other heavy-duty on-road sectors to further help achieve the emission reduction goals identified in the 2016 State SIP Strategy.

D. *What requirements does the regulation establish?*

The ICT regulation applies to any public transit agency that owns, operates, leases, rents, or contracts with another entity to operate buses in California, but the term “transit agency” does

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<sup>4</sup> CARB, Revised Proposed 2016 State Strategy for the State Implementation Plan, March 7, 2017, pages 69-71. The EPA approved the 2016 State SIP Strategy as a revision to the California SIP at February 12, 2019, 84 FR 3302; corrected at May 3, 2019, 84 FR 19680; and at October 1, 2019, 84 FR 52005.

<sup>5</sup> CARB; Public Hearing to Consider the Proposed Innovative Clean Transit Regulation, a Replacement of the Fleet Rule for Public Agencies; Staff Report: Initial Statement of Reasons; Date of Release: August 7, 2018 (“CARB’s ICT Staff Report”); chapter 7 (“Environmental Justice”).

<sup>6</sup> CARB’s ICT Staff Report, page IV-2.

not mean a correctional facility, airport, college or university, national park, tour bus service provider, or an entity that provide shuttle services solely for patrons of its organization.<sup>7</sup> The regulation also does not apply to school buses, vehicles on rails, or trolleybuses even if operated by a public transit agency and does not apply to Caltrans, Caltrain, Amtrak, or any local school district.<sup>8</sup>

CARB's ICT regulation requires public transit agencies to submit a ZEB Rollout Plan approved by the applicable governing board that demonstrates how the agency plans for ZEB purchase and infrastructure buildout, and associated financial planning and workforce training by certain deadlines established in the regulation.<sup>9</sup> The regulation also establishes ZEB purchase requirements that provide for an increasing percentage of new buses<sup>10</sup> to be ZEBs such that, by January 1, 2029, all new bus purchases must be ZEBs.<sup>11</sup>

The regulation also provides for waivers for early compliance and provides certain compliance flexibility through provisions allowing pooling of resources among multiple transit agencies, establishing options for other, zero-emission transit services and allowing extensions or exemptions from ZEB purchase requirements for circumstances outside the transit agency's control.<sup>12</sup> The ICT regulation also requires generally that, when new conventional internal combustion engine bus or hybrid bus purchases are made, transit agencies must purchase buses with low-NOx engines that meet certain criteria if low-NOx engines are available for the bus type and propulsion system type being purchased.<sup>13</sup> For large transit agencies, the ICT regulation requires them to use renewable diesel or natural gas to fuel their buses that have not yet converted to ZEBs.<sup>14</sup> Finally, the ICT regulation includes reporting and recordkeeping

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<sup>7</sup> 13 CCR 2023(a)(1) and (b)(51).

<sup>8</sup> 13 CCR 2023(a)(2).

<sup>9</sup> 13 CCR 2023 and 2023.1.

<sup>10</sup> Under the ICT regulation, the term "bus" means a rubber-tire vehicle designed to transport passengers by road with gross vehicle weight rating (GVWR) greater than 14,000 pounds. See 13 CCR 2023(b)(6).

<sup>11</sup> 13 CCR 2023.1.

<sup>12</sup> 13 CCR 2023.1, 2023.2 and 2023.4.

<sup>13</sup> 13 CCR 2023.6

<sup>14</sup> 13 CCR 2023.7.

requirements to ensure compliance with the regulation.<sup>15</sup>

## **II. The EPA's Evaluation and Action**

### **A. *How is the EPA evaluating the regulation?***

The EPA has evaluated the ICT regulation against the applicable procedural and substantive requirements of the CAA for SIPs and SIP revisions and has concluded that the ICT regulation meets all of the applicable requirements. Generally, SIPs must include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary to meet the requirements of the Act [see CAA section 110(a)(2)(A)]; must provide necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out such SIP (and is not prohibited by any provision of federal or state law from carrying out such SIP) [see CAA section 110(a)(2)(E)]; must be adopted by a state after reasonable notice and public hearing [see CAA section 110(l)], and must not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act [see CAA section 110(l)].<sup>16</sup>

### **B. *Does the regulation meet the evaluation criteria?***

#### **1. Did the State provide for reasonable public notice and hearing prior to adoption?**

Under CAA section 110(l), SIP revisions must be adopted by the State, and the State must provide for reasonable public notice and hearing prior to adoption. In 40 CFR 51.102(d), we specify that reasonable public notice in this context refers to at least 30 days. The ICT regulation was adopted by the CARB Board on December 14, 2018, through Resolution 18-60 following a public hearing held on that same day.<sup>17</sup> Prior to adoption, CARB published notice of

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<sup>15</sup> 13 CCR 2023.8 and 2023.9.

<sup>16</sup> CAA section 193, which prohibits any pre-1990 SIP control requirement relating to nonattainment pollutants in nonattainment areas from being modified unless the SIP is revised to insure equivalent or greater emission reductions of such air pollutants, does not apply to the ICT regulation because it does not represent pre-1990 SIP control requirements.

<sup>17</sup> CARB Resolution 18-60 (page 4) states: "WHEREAS, In March 2017, the Board adopted the State Strategy for the State Implementation Plan, which identifies the deployment of zero-emission buses as a necessary component

a September 27, 2018 public hearing on July 24, 2018, and provided a 45-day comment period.<sup>18</sup> CARB subsequently provided public notice and a 15-day comment period on modifications made to the original draft regulation that was the subject of the September 27, 2018 hearing. The CARB Executive Officer submitted the final ICT rulemaking package to the California Office of Administrative Law (OAL) on July 3, 2019. OAL approved the rulemaking and filed with the California Secretary of State on August 13, 2019. The effective date under State law is October 1, 2019. CARB submitted the OAL-approved Final Regulation Order to the EPA on February 13, 2020, along with various other materials comprising the SIP submission package, including copies of public comments received during the two comment periods and CARB's responses to the comments.

Based on the materials provided in the February 13, 2020 SIP submission and summarized above, we find that CARB has met the procedural requirements for adoption and submission of SIPs and SIP revisions under CAA section 110(l) and 40 CFR 51.102.

2. Does the State have adequate legal authority to implement the regulation?

CARB has been granted both general and specific authority under the CH&SC to adopt and implement these regulations. CH&SC sections 39600 ("Acts required") and 39601 ("Adoption of regulation; Conformance to federal law") confer on CARB the general authority and obligation to adopt regulations and measures necessary to execute CARB's powers and duties imposed by State law. CH&SC sections 43013(a) and 43018 provide broad authority to achieve the maximum feasible and cost-effective emission reductions from all mobile source categories, including both on-road and off-road diesel engines.

Moreover, we know of no obstacle under Federal or State law in CARB's ability to

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for California to achieve established near- and long- term air quality and climate mitigation targets (Resolution 17-7, March 23, 2017)."

<sup>18</sup> The July 24, 2018 public notice (page 20) states: "If adopted by CARB, CARB plans to submit the proposed regulatory action to the United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA."



implement the regulations. As a general matter, the CAA assigns mobile source regulation to the EPA through title II of the Act and assigns stationary source regulation and SIP development responsibilities to the states through title I of the Act. More specifically, with respect to new motor vehicles, CAA section 209(a) provides that no state or any political subdivision may adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines. CAA section 209(b) provides that the EPA must issue waivers to California for standards otherwise preempted under CAA section 209(a) if certain criteria are met. However, in this instance, CARB is setting forth requirements related to transit bus purchases directed at public transit agencies and has not adopted or attempted to enforce a “standard” relating to the control of emissions from new motor vehicles for the purposes of CAA section 209(a) (*e.g.*, CARB has not set a regulatory requirement on private fleet operator purchases within the State).<sup>19</sup> Consequently, the ICT regulation is not preempted under CAA section 209(a) and does not require an EPA waiver under CAA section 209(b). The ICT regulation, however, does reduce emissions from a certain class of public vehicles and therefore is more stringent than the otherwise applicable State or Federal standards.

3. Is the regulation enforceable as required under CAA section 110(a)(2)?

We have evaluated the enforceability of the ICT regulation with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting,<sup>20</sup> and have concluded for the reasons given below that the regulation is enforceable for the purposes of CAA section 110(a)(2).

First, with respect to applicability, we generally find that the ICT regulation is sufficiently clear as to which entities are subject to the requirements in the regulation and which entities are exempt.<sup>21</sup> Second, we find that the ICT regulation is, as a general matter, sufficiently

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<sup>19</sup> See *Engine Manufacturers Ass’n v. South Coast Air Quality Management District*, 541 U.S. 246 (2004) and subsequent history at 2005 WL 1163437 (C.D.Cal. 2005) and 498 F.3d. 1031 (9th Cir. 2007).

<sup>20</sup> These concepts are discussed in detail in an EPA memorandum from J. Craig Potter, EPA Assistant Administrator for Air and Radiation, et al., titled “Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,” dated September 23, 1987.

<sup>21</sup> 13 CCR 2023.

specific so that the persons affected by the regulation are fairly on notice as to what the requirements and related compliance dates are.<sup>22</sup> To a large extent, we have already described the substantive requirements and compliance dates set forth in the ICT regulation in section I.D of this document. We note, however, that the definitions set forth in the ICT regulation cite to other sections of California code or regulation, and thus, the definitions in the ICT regulation would be ambiguous for the purposes of enforcement of the SIP unless the other sections of California code or regulation on which the ICT regulation relies are submitted and approved into the SIP along with the ICT regulation. On August 11, 2022, CARB supplemented the original SIP submission with additional sections of California code or regulation on which the ICT regulation relies (see table 2, above) to the EPA for SIP approval to avoid the potential ambiguity in the ICT regulation. With respect to compliance dates, we note that no compliance date in the ICT regulation extends past January 1, 2029, which is consistent with the attainment needs for California with respect to the attainment deadline for the South Coast and San Joaquin Valley “Extreme” nonattainment areas for the 2008 ozone NAAQS.

Third, the ICT regulation does not include sunset provisions. Fourth, we note that the ICT regulation does not contain provisions that allow for discretion on the part of CARB’s Executive Officer. Such “director’s discretion” provisions can undermine enforceability of a SIP regulation, and thus prevent full approval by EPA. In the case of the ICT regulation, the regulation allows transit agencies to request an exemption from the ZEB requirement under certain specified circumstances. Specifically, under 13 CCR 2023.4, transit agencies may request an exemption from purchasing ZEBs under any of five circumstances, all of which must be outside the transit agencies’ control. Exemptions are allowed when:

1. a delay in bus delivery is caused by a setback in the construction of infrastructure needed for the ZEB;
2. available ZEBs cannot meet a transit agency's daily mileage needs;

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<sup>22</sup> 13 CCR 2023.1.

3. available ZEBs do not have adequate gradeability performance to meet the transit agency's daily needs for any bus in its fleet;
4. a required ZEB type for the applicable weight class (based on gross vehicle weight rating (GVWR)) is unavailable for purchase; or
5. the ZEB purchase requirements in section 2023.1(a) cannot be met due to financial hardship.<sup>23</sup>

In each instance, the regulation sets forth the documentation required to establish an exemption, and, if fulfilled, the CARB Executive Officer must issue the exemption, thereby avoiding problematic “director’s discretion” with respect to the issuance of exemptions by the CARB Executive Officer. Lastly, the ICT regulation includes recordkeeping and reporting requirements that are sufficient to ensure compliance with the applicable requirements.<sup>24</sup>

4. Do the regulations interfere with reasonable further progress (RFP) and attainment or any other applicable requirement of the Act?

The ICT regulation is an outgrowth of a committal measure for further deployment of zero-emission bus technologies in the public transit sector that was adopted by CARB in the 2016 State SIP Strategy. The ICT regulation would achieve incremental emissions reductions needed to attain the NAAQS, particularly in the South Coast and San Joaquin Valley air quality planning areas. Thus, we find that the approval of the ICT regulation is consistent with CAA section 110(l) and would not interfere with RFP, attainment or any other applicable requirement of the Act.

5. Will the State have adequate personnel and funding for the regulations?

Chapter XIII of CARB’s ICT Staff Report addresses economic impacts associated with

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<sup>23</sup> Financial hardship would be granted if a fiscal emergency is declared under a resolution by a transit agency's governing body following a public hearing, a transit agency can demonstrate that it cannot offset the incremental cost of purchasing all available zero-emission buses when compared to the cost of the same type of conventional bus, or a transit agency can demonstrate that it cannot offset the managed, net electricity cost for depot charging battery electric buses when compared to the fuel cost of the same type of conventional internal combustion engine buses. 13 CCR 2023.4(c)(5)(A).

<sup>24</sup> 13 CCR 2023.8 and 2023.9.

the ICT regulation, including personnel requirements for CARB and fiscal impacts to public transit agencies. CARB’s economic impacts assessment concludes that the ICT regulation would require only one additional person-year for developing a reporting system and updating fleet information prior to initial reporting in 2020, assisting transit agencies with compliance and annual reporting, disseminating information to transit fleets, and enforcement (including auditing reported information, and site visits to confirm vehicle equipment).<sup>25</sup> As such, we find that CARB has adequate personnel and funding for the ICT regulation.

#### 6. EPA’s Regulation Evaluation Conclusion

Based on the above discussion, we believe these regulations are consistent with the relevant CAA requirements, policies and guidance.

#### C. *The EPA’s recommendations to further improve the rules*

Several of the defined terms in the ICT regulation reference definitions set forth in paragraphs of other CCR sections that have been renumbered since the ICT regulation was adopted. The cross-references should be updated when CARB next considers amendments to the ICT regulation. The specific defined terms with the outdated CCR references include: (1) the term “compressed natural gas (CNG),” which should be updated to cite 17 CCR 95481(a)(30) rather than 17 CCR 95481(a)(27); (2) the term “renewable hydrocarbon diesel,” which should be updated to cite 17 CCR 95481(a)(130) rather than 17 CCR 95481(a)(123); and (3) the term “biomethane,” which should be updated to cite 17 CCR 95481(a)(22) rather than 17 CCR 95481(a)(20).

#### D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted ICT regulation because it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the *Federal Register*]**. If we take final action to approve the submitted ICT regulation, our final

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<sup>25</sup> CARB’s ICT Staff Report, page VIII-28.

action will incorporate the associated rules into the federally enforceable SIP.

### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the California rules listed in tables 1 and 2 and discussed in Section I of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law

104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Innovative Clean Transit regulation furthers state environmental justice goals by transitioning to clean transportation modes in low-income and disadvantaged communities. There is no information in the record inconsistent with the stated goals of E.O 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: October 3, 2022.

Martha Guzman Aceves,  
*Regional Administrator,*  
*Region IX.*

[FR Doc. 2022-21910 Filed: 10/13/2022 8:45 am; Publication Date: 10/14/2022]